IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.1377 OF 2005

Smt.Babibai Narayan Patil : Petitioner
(Orig. Deft.)

V/s.

Smt.Sulochana Kiran Bhoir : Respondent
(Orig. Plaintiff)

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Mr.N.V.Walawalkar with Mr.G.H.Keluskar for the petitioner.
Mr.P.K.Deshmukh for the respondent.

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CORAM : S.A. BOBDE, J.

July 13, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Deshmukh, learned counsel, appears and waives service of rule on behalf of the respondent.

Heard by consent.

2. The petitioner has challenged an order allowing amendment. By the amendment, the date of the will in question is sought to be changed from 14.5.1969 to 13.5.1969.

3. Mr.Walawalkar, the learned counsel for the petitioner, strongly objected to the order allowing amendment on the ground that the respondent had even earlier got the date of the will amended from 15.5.1969 to 14.5.1969. Admittedly, the will apperas to be a registered document. The respondent has not pleaded any date on the execution of the will. It is difficult to see how any prejudice will be caused to the defendant, if the date of the will is allowed to be amended.

4. Mr.Walawalkar further submitted that the amendment is barred by limitation. The trial Court has itself kept the issue of limitation open by referring to the decision of the Supreme Court in Raghu Tilak v. Rayappan (A.I.R. 2001 S.C. 699). This issue is, therefore, open. There is no merit in the petition which is hereby dismissed.

5. The rule stands discharged.

S.A. BOBDE, J.